

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

RICARDO WARE,	:	
	:	
Petitioner,	:	Civil Action
	:	No. 5:06-CV-370 (CAR)
vs.	:	
	:	
RALPH KEMP, Warden,	:	HABEAS CORPUS
	:	28 U.S.C. § 2254
Respondent.	:	

***ORDER ON THE UNITED STATES MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION***

Before the Court is the United States Magistrate Judge's Recommendation [Doc. 29] that the instant petition for federal habeas corpus relief [Docs. 1 and 23] be denied. An Objection [Doc. 30] to the Recommendation was filed, and pursuant to 28 U.S.C. § 636(b)(1), the Court has made a *de novo* determination of the portions of the Recommendation to which Petitioner objects. After careful consideration, however, the Court accepts and adopts the findings, conclusions, and recommendations of the Magistrate Judge.

The Recommendation correctly observes that a number of the claims Petitioner raises are waived by default, for failure to comply with the procedural rules of the State of Georgia. As to those claims that are not defaulted, the record shows that such claims were thoroughly examined by the state courts on review of Petitioner's motion for new trial, direct appeal, and state habeas corpus petition. Petitioner has failed to show that those proceedings resulted in a decision contrary to or involving an unreasonable application of clearly established federal

law or that they resulted in a decision based on an unreasonable determination of the facts.

As such, Petitioner is not entitled to relief under 28 U.S.C. § 2254. The Recommendation of the United States Magistrate Judge is therefore **ADOPTED** and **MADE THE ORDER OF THE COURT**, and Petitioner's petition for federal habeas corpus relief is **DENIED**.

SO ORDERED, this 30th day of March, 2010.

S/ C. Ashley Royal
C. ASHLEY ROYAL
UNITED STATES DISTRICT JUDGE

APG/chw